

### **REMARKS**

This responds to the Office Action mailed on March 29, 2005, and the references cited therewith.

Claims 1-2, 5, 8, 10-11, 13-16, 18, 21, and 23 are amended; as a result, claims 1-25 are now pending in this application.

#### **Specification Objection**

The Specification was objected to because a reference referred to FIG. 1 and not FIG. 3 as it should have. Applicants have corrected this by way of amendment above and therefore believe that this objection is no longer appropriate and should be withdrawn.

#### **Claim Objections**

Claims 2, 5, 8, 14-15, 18, 21 and 23 were objected to for terminology informalities. Applicants has substituted the term “forwarding” for the previous term “re-transmitting” in the offending claims as requested by the Examiner. Therefore, these rejections are no longer appropriate and should be withdrawn. Applicants note that the Examiner cited claims 14-15 as having this terminology when in fact claims 14-15 do not use the term “re-transmitting;” rather, this term is found in claims 11 and 13. Applicants corrected the term confusion in claims 11 and 13 above. Thus, these rejections should be withdrawn and have been overcome.

In addition claims 8, 17, 22, and 24 were objected to for the use of the phrase “associating one of a plurality of QoS codes with each of a plurality of QoS levels . . . .” The Examiner suggested change to “associating one of a plurality of QoS codes with one of a plurality of QoS levels” has been made to these claims. Thus, these rejections are no longer appropriate and should be withdrawn.

#### **§112 Rejection of the Claims**

Claims 14 and 15 were rejected under 35 U.S.C. § 112, second paragraph, for indefiniteness. Claims 14 and 15 included a typographical error which appeared to make these claims dependent from a method when in fact they are dependent from an apparatus. Correction

to claims 14-15 has been made above. Thus, these rejections are no longer appropriate and should be withdrawn.

§102 Rejection of the Claims

Claims 1-3, 5-6, 10-14, 16, 18-19, 21 and 23 were rejected under 35 U.S.C. § 102(e) for anticipation by Kloth et al. (U.S. 6,643,260). It is of course fundamental that in order to sustain an anticipation rejection that each and every step or element in the rejected claim must be taught or suggested in the cited reference.

The Examiner has interpreted Kloth to include a QoS code in an IP address; in support of this the Examiner cites the use of the Type of Service (ToS) reserved storage area for an IP packet header, where Kloth inserts Class of Service (CoS) information. The Applicants disagree with the broad interpretation being proposed by the Examiner with respect to Kloth, because the interpretation does not comport with how one of ordinary skill in the art would interpret these terms and this technique being used by Kloth.

More specifically, the CoS information in Kloth is being used in a typical ToS field that is included with IP packets. That is, the CoS information is not part of the IP address it is part of an IP packet header and it uses a very specific reserved field from the header, namely the ToS field. Conversely, Applicants' amended independent claims 1, 5, 10, 13, 16, 21, and 23 now clearly and positively recite that the QoS code is part of the IP address not part of header information for the packet. The code is part of the address itself and used in unused bits of the address. Applicants are not using the ToS field in the packet to achieve their novel quality of service techniques; thus, the ToS field can still be used in the manner it was intended. This is not true with Kloth, Kloth requires the ToS field to be used in a defined manner and Kloth does not insert its CoS into the IP address it is inserted into the ToS field of a header for an IP packet.

Secondly, Applicants respectfully disagree that the CoS information inserted in the ToS field by Kloth is the same as Applicants' QoS code. One of ordinary skill in the art recognizes that there is a very distinct difference between the concepts of CoS and QoS. CoS is a way of managing traffic in a network by grouping similar types of traffic (e.g., email, voice, etc.) together and treating each type as a class with its own service priority. Conversely, QoS provides assurances about bandwidth usage and/or delivery time. Thus, with CoS best efforts are

used to achieve QoS, but CoS is not the same as QoS. Typically, one of ordinary skill in the art views CoS as a coarse-grain traffic control mechanism and views QoS as a fine-grain traffic control mechanism. In support of this interpretation, the Examiner's attention is directed to <http://whatis.techtarget.com/> using search term "CoS."

Therefore, Applicants assert that the rejections with respect to Kloth should be withdrawn in view of the above-provided amendments and remarks.

§103 Rejection of the Claims

Claims 4, 7-9, 15, 17, 20, 22 and 24-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kloth et al. in view of Davies et al. (U.S. 6,483,805). To sustain an obviousness rejection, each and every step or element must be taught or suggested in the proposed combination of references.

Claim 8 has been amended to include the limitation that the QoS code is included in the IP address. Applicants have provided a detailed rationale for why this is not taught in Kloth and why a QoS code is not the same as the Kloth CoS information. The Examiner relies on this interpretation of Kloth to reject the independent claim 8 in this rejection. Therefore, Applicants believe that this rejection has been overcome and should be withdrawn. The remaining claims are dependent on independent claims, which have been discussed and amended above. Thus, the rejections with respect to these claims should also be withdrawn.

**CONCLUSION**

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at (513) 942-0224 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

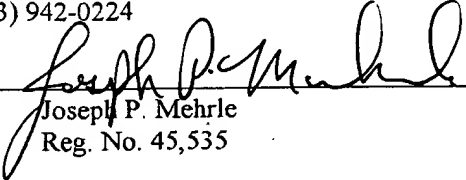
MONTY SHARMA ET AL.

By their Representatives,

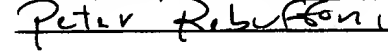
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(513) 942-0224

Date 6-29-05

By

  
Joseph P. Mehrle  
Reg. No. 45,535

**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 29 day of June, 2005.

  
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